

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

\*\*\* FILED \*\*\*  
06/05/2002

05/31/2002

CLERK OF THE COURT  
FORM R000A

HONORABLE LINDA A. AKERS

G. Kuder  
Deputy

CR 2002-093045

FILED: \_\_\_\_\_

STATE OF ARIZONA

JEANNETTE GALLAGHER

v.

ALAN MARCEL SOJKA (A)

JENNIFER L MOORE

ANDREW M HULL  
301 E BETHANY HOME RD  
SUITE 295-C  
PHOENIX AZ 85012

MINUTE ENTRY

The Court has read and considered the Defendant's Motion for Order Allowing Defense Counsel to Retrieve Possible Items of Evidentiary Value From Defendant's Apartment. The State has informed the Court by electronic mail that it does not intend to file a response, as it does not believe that it has standing.

Specifically, Defendant is asking that his attorney or her investigator as his agent enter the apartment before his property is sold or destroyed on June 9, 2002 pursuant to a North Mesa Justice Court order in CV02-00868FD. Counsel indicates that "[a]ll items of potential evidentiary value are papers with notations that have no fiscal value and could not be used by the apartment complex to offset any financial obligations".

Although the Court has not been provided any documentation, apparently the landlord has retaken the dwelling pursuant to the remedies in A.R.S. 33-1370 because the unit was abandoned, or at

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least, de facto abandoned. As a consequence, the defendant/tenant no longer has any right to enter the apartment because the rental agreement has been terminated.

Pursuant to A.R.S. 33-1370(E) the landlord can hold the tenant's personal property until actual removal and storage costs have been paid in full. The property can be sold after ten (10) days. Notwithstanding the right to secure and sell the tenant's property, the tenant can obtain among other things, "any identification or financial documents, including any related to the tenant's immigration status, employment status, public assistance or medical care."

Broadly interpreted, the items requested by counsel on behalf of the Defendant appear to fall into this category.

**IT IS ORDERED** granting the Defendant's motion pursuant to A.R.S. 33-1370(E) with the requirement that an inventory of any items removed be made by Defendant or his agents and provided to the landlord or his representative.

**IT IS FURTHER ORDERED** that a copy of the inventory provided to the landlord be filed under seal with this Court. Defendant shall provide copies of any documents removed if requested by the landlord.